

(5) Any trust or other estate in which a director, officer, or controlling person of such association or the spouse of such person has a substantial beneficial interest or as to which such person or his or her spouse serves as trustee or in a similar fiduciary capacity.

[59 FR 18476, Apr. 19, 1994]

§ 561.6 Audit period.

The *audit period* of a savings association means the twelve month period (or other period in the case of a change in audit period) covered by the annual audit conducted to satisfy § 563.170.

§ 561.7 BIF.

The term *BIF* means the Bank Insurance Fund established by the Federal Deposit Insurance Act. (12 U.S.C. 1821 *et seq.*)

§ 561.8 [Reserved]

§ 561.9 Certificate account.

The term *certificate account* means a savings account evidenced by a certificate that must be held for a fixed or minimum term.

§ 561.12 Consumer credit.

The term *consumer credit* means credit extended to a natural person for personal, family, or household purposes, including loans secured by liens on real estate and chattel liens secured by mobile homes and leases of personal property to consumers that may be considered the functional equivalent of loans on personal security: *Provided*, the savings association relies substantially upon other factors, such as the general credit standing of the borrower, guaranties, or security other than the real estate or mobile home, as the primary security for the loan. Appropriate evidence to demonstrate justification for such reliance should be retained in a savings association's files. Among the types of credit included within this term are consumer loans; educational loans; unsecured loans for real property alteration, repair or improvement, or for the equipping of real property; loans in the nature of overdraft protection; and credit extended in connection with credit cards.

§ 561.14 Controlling person.

The term *controlling person* of a savings association means any person or entity which, either directly or indirectly, or acting in concert with one or more other persons or entities, owns, controls, or holds with power to vote, or holds proxies representing, ten percent or more of the voting shares or rights of such savings association; or controls in any manner the election or appointment of a majority of the directors of such savings association. However, a director of a savings association will not be deemed to be a controlling person of such savings association based upon his or her voting, or acting in concert with other directors in voting, proxies:

(a) Obtained in connection with an annual solicitation of proxies, or

(b) Obtained from savings account holders and borrowers if such proxies are voted as directed by a majority vote of the entire board of directors of such association, or of a committee of such directors if such committee's composition and authority are controlled by a majority vote of the entire board and if its authority is revocable by such a majority.

§ 561.15 Corporation.

The terms *Corporation* and *FDIC* mean the Federal Deposit Insurance Corporation.

§ 561.16 Demand accounts.

(a) The term *demand accounts* means non-interest-bearing demand deposits which are subject to check or to withdrawal or transfer on negotiable or transferable order to the savings association and which are permitted to be issued by statute, regulation, or otherwise and are payable on demand.

(b) A fee paid by a savings association to a person who introduces a depositor to the savings association shall not be deemed a payment of interest to the depositor if the fee:

(1) Consists of bonuses in cash or merchandise to the savings association's employees for participation in an account drive, contest or other incentive plan: *Provided, That* such bonuses are tied to the total amount of deposits solicited; or

(2) Is paid to a bona fide broker if:

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(i) The broker is principally engaged in the business of acting as a broker or dealer in regard to deposits, securities, or money market instruments;

(ii) The relationship between the broker and savings association is memorialized in a written agreement, a copy of which is retained by the savings association and made available to examiners; and

(iii) An officer of the broker certifies that no portion of the fee paid to the broker is directly or indirectly passed on to the depositor, and a copy of the certification is given to the savings association to be retained on file with the agreement.

[54 FR 49545, Nov. 30, 1989, as amended at 58 FR 4313, Jan. 14, 1993; 62 FR 54765, Oct. 22, 1997]

§ 561.18 Director.

(a) The term *director* means any director, trustee, or other person performing similar functions with respect to any organization whether incorporated or unincorporated. Such term does not include an advisory director, honorary director, director emeritus, or similar person, unless the person is otherwise performing functions similar to those of a director.

(b) The term *Director* means the Director of the Office of Thrift Supervision as established in section 3 of the Act.

§ 561.19 Financial institution.

The term *financial institution* has the same meaning as the term *depository institution* set forth in 12 U.S.C. 1813(c)(1).

§ 561.24 Immediate family.

The term *immediate family* of any natural person means the following (whether by the full or half blood or by adoption):

(a) Such person's spouse, father, mother, children, brothers, sisters, and grandchildren;

(b) The father, mother, brothers, and sisters of such person's spouse; and

(c) The spouse of a child, brother, or sister of such person.

§ 561.26 Land loan.

The term *land loan* means a loan:

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(a) Secured by real estate upon which all facilities and improvements have been completely installed, as required by local regulations and practices, so that it is entirely prepared for the erection of structures;

(b) To finance the purchase of land and the accomplishment of all improvements required to convert it to developed building lots; or

(c) Secured by land upon which there is no structure.

§ 561.27 Low-rent housing.

The term *low-rent housing* means real estate which is, or which is being constructed, remodeled, rehabilitated, modernized, or renovated to be, the subject of an annual contributions contract for low-rent housing under the provisions of the United States Housing Act of 1937, as amended.

§ 561.28 Money Market Deposit Accounts.

(a) Money Market Deposit Accounts (MMDAs) offered by Federal savings associations in accordance with 12 U.S.C. 1464(b)(1) and by state-chartered savings associations in accordance with applicable state law are savings accounts on which interest may be paid if issued subject to the following limitations:

(1) The savings association shall reserve the right to require at least seven days' notice prior to withdrawal or transfer of any funds in the account; and

(2)(i) The depositor is authorized by the savings association to make no more than six transfers per calendar month or statement cycle (or similar period) of at least four weeks by means of preauthorized, automatic, telephonic, or data transmission agreement, order, or instruction to another account of the depositor at the same savings association to the savings association itself, or to a third party: *Provided, That* no more than three of the six transfers provided for in this paragraph (a)(2)(i) may be by check, draft, debit card, or similar order made by the depositor and payable to third parties.

(ii) Savings associations may permit holders of MMDAs to make unlimited transfers for the purpose of repaying